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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/670,776	09/26/2003	John Barrett Holdway	P68925US0	4340

136 7590 08/01/2006

JACOBSON HOLMAN PLLC
400 SEVENTH STREET N.W.
SUITE 600
WASHINGTON, DC 20004

EXAMINER

WAGGONER, TIMOTHY R

ART UNIT

PAPER NUMBER

3651

DATE MAILED: 08/01/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/670,776	HOLDWAY ET AL.	
	Examiner	Art Unit	
	Timothy R. Waggoner	3651	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 June 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 17-31 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 23,30 and 31 is/are allowed.
- 6) ☒ Claim(s) 17-22 and 24-29 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>06/21/2006</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Allowable Subject Matter

Prosecution on the merits of this application is reopened on claims 21,28,29 considered unpatentable for the reasons indicated below:

Examiner has changed his stance on the existing prior art and is issuing a second non-final rejection as such.

Claims 23,30 and 31 are allowed over the present prior art.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 17-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Arai US 2001/0048000 in view of Peltier USPN 5,611,248 as applied in prior action, and further in view of Herzog USPN 6,755,322.

(Re claim 21) Arai as modified by Peltier discloses the matter in canceled claim 16 which is now incorporated in claim 21.

Arai as modified by Peltier does not disclose the pivoting of an elevator cup.

Herzog teaches a pivoting elevator cup.

It would be obvious to one skilled in the art to add the pivoting feature as taught by Herzog to Aria as modified by Peltier because it allows receipt and placement of articles from different angles.

Re Claim 17) "elevator cup detects a presence of a dispensed product" (Page 4 Col 1 line 55-56, Aria).

(Re claim 18) "elevator cup is open on one side" (Top, 4a figure 8, Aria).

(Re claim 19) "the first tension element and the second tension element are one of a belt, a chain, and a cable" (line 6 column 3, Peltier).

(Re claim 20) "rail is slidable along the vertical guide rail at each end of the rail" (62a figure 2, Aria).

(Re claim 22) "elevator cup is pivotal to an angle of approximately 45" degrees (Herzog, figure 12a).

Claims 24-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Aria as modified by Peltier and further modified by Herzog as applied to claims 17-22 above, and further in view of Sorensen USPN 6,230,930.

(Re claim 24) Aria as modified by Peltier and further modified by Herzog discloses the transportation system of claim 16.

Aria as modified by Peltier and further modified by Herzog does not disclose being located on a movable door of a vending machine.

Sorensen teaches the mounting of the transportation mechanism to the movable door of a vending machine.

It would be obvious to one skilled in the art to have modified the attachment location of Aria as modified by Peltier and further modified by Herzog to be attached to a movable door, because it saves space in the housing.

(Re claim 25) "the movable door includes a clear panel" (10a figure 1, Aria).

(Re claim 26) "positioning of the elevator cup and the rail are controlled by an input to a keypad" (16 figure 1, Aria).

(Re claim 27) "a product compartment of the vending machine includes a plurality of removable product separation and selection tray systems" (20 figure 1, Aria).

(Re claim 28) Aria as modified by Peltier and further modified by Herzog discloses the material in canceled claims 16,24 and 25 and incorporated in claim 28.

Aria as modified by Peltier and further modified by Herzog does not disclose the details of the selection tray system.

Sorensen teaches the details of the selection tray system listed below:

"a tray for holding two columns of product to be mounted on a shelf in the vending machine" (160 figure 25).

"a central wall for separating the two columns of product" (42b figure 11).

"a rotator pivotally mounted on the tray" (116 figure 13A).

"a gate pivotally mounted on the tray " (113 figure 13B).

"a lever projecting from the tray" (110a figure 13A).

It would be obvious to one skilled in the art to modify Aria as modified by Peltier and further modified by Herzog to use the selection tray system as taught by Sorensen

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because its utilizes the movement of an elevator cup to dispense product with a second driven component for dispensing the product.

Claims 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Arai US 2001/0048000 in view of Peltier USPN 5,611,248 as applied in prior action, and further in view of Laurienzo USPN 6,224,455.

Arai as modified by Peltier discloses the matter in canceled claim 16 which is now incorporated in claim 29.

Arai as modified by Peltier does not disclose an arcuate slot for guiding a pivoting component.

Laurienzo teaches the use of a arcuate slot to guide the motion of a pivotal component.

It would be obvious to one skilled in the art to provide an arcuate slot on the elevator cup of Arai as modified by Peltier because the arcuate slot taught by Laurienzo provides a physical restriction to the rotation preventing it from moving beyond its desired range.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Timothy R. Waggoner whose telephone number is (571) 272-8204. The examiner can normally be reached on Mon-Thu 8am-2pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gene Crawford can be reached on (571) 272-6911. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

TRW


GENE O. CRAWFORD
SUPERVISORY PATENT EXAMINER